

Exhibit 38A

PLACEHOLDER

Anita B. WorthPoint.m4a

EXHIBIT # 38A

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Plaintiff's Evidence Expert Dis. 000919

Written Transcript for Phone Calls To WorthPoint Corp. 2016

**1-January 22, 2016 Plaintiff Spoke
To Anita Brooks-Referral to Greg**

**2-January 31, 2016 Plaintiff Left
Phone Message**

**3-February 1, 2016 Second
Phone Call Plaintiff Spoke With
Anita Brooks Again Re Greg**

Plaintiff's Evidence Expert Dis. 000920

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**1-January 22, 2016 Phone calls to WorthPoint Employee Anita Brooks
By Artist Annamarie Trombetta**

{Several calls & messages left from Jan. 22 2016 to Feb. 1, 2016 }

2-January 31, 2016 Message Left on WorthPoint Phone Service

**3- February 1, 2016 Phone Call to Anita Brooks By Annamarie
Trombetta**

THREE PHONE CALLS WITHIN PLAINTIFF'S TRANSCRIPTION

00;00;00;01 - 00;00;18;18

Speaker Annamarie Trombetta Plaintiff

Yes. Is this Anita?

Speaker WorthPoint Employee Anita Brooks

It is.

Speaker Annamarie Trombetta Plaintiff

Yes. This is Annamarie, Trombetta. I just called you. I am calling because I found a link on the internet relating to a painting that is on the WorthPoint website.

00;00;22;25 - 00;00;25;17

Speaker Annamarie Trombetta Plaintiff

Hello.

Speaker WorthPoint Employee Anita Brooks

I'm still here.

00;00;26;10 - 00;00;39;21

Speaker Annamarie Trombetta Plaintiff

So my question is, how do you compile your information and how can I find out who the seller was of this piece of artwork, this painting, that's listed on the Internet?

00;00;41;13 - 00;00;54;06

Speaker WorthPoint Employee Anita Brooks

If it's is on our website. Then you can contact whoever the source is. The source is eBay, or if you can prove ... you can contact them directly.

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Plaintiff's Evidence Expert Dis. 000921

00;00;54;08 - 00;01;17;16

Speaker Annamarie Trombetta Plaintiff

I actually....

Speaker WorthPoint Employee Anita Brooks

They would have the information that....

Speaker Annamarie Trombetta Plaintiff

I actually I actually did contact eBay today.... I contacted eBay earlier today and uh..they said that they have no information regarding this um... image... because the code is nine digits and they only have a 12 digit code.

00;01;18;05 - 00;01;24;25

Speaker WorthPoint Employee Anita Brooks

OK. Well I'm not really familiar with that.... But we wouldn't have any information on the seller at all. We don't have that data. It is not useful to us.

00;01;24;26 - 00;01;34;26

Speaker Annamarie Trombetta Plaintiff

Right. But I just sent you an email a little while ago regarding a host of questions. How do you get your information ?

00;01;36;19 - 00;01;37;11

Speaker WorthPoint Employee Anita Brooks

From our affiliates.

00;01;38;03 - 00;01;39;12

Speaker Annamarie Trombetta Plaintiff

Well, who's your affiliates.

00;01;40;14 - 00;01;45;00

Speaker WorthPoint Employee Anita Brooks

There's a list of affiliates on our website.

00;01;46;01 - 00;01;48;06

Plaintiff's Evidence Expert Dis. 000922

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Speaker Annamarie Trombetta Plaintiff

umm hmm ... Well... Is there any way that I can find out ...Who owns this painting.

00;01;48;29 - 00;01;49;16

Speaker WorthPoint Employee Anita Brooks

If eBay is the source on our website, and they don't have the information who the seller or buyer is.....we would not have that information.

00;02;01;08 - 00;02;02;16

Speaker Annamarie Trombetta Plaintiff

Well, I'm the artist....

00;02;02;17 - 00;02;04;13

Speaker WorthPoint Employee Anita Brooks

You would not be able to get that information from WorthPoint.

00;02;05;09 - 00;02;32;01

Speaker Annamarie Trombetta Plaintiff

I wouldn't be able to get that information from WorthPoint.

Speaker WorthPoint Employee Anita Brooks

No

Speaker Annamarie Trombetta Plaintiff

Well, your company has put up a link to..... not only me, who's the artist, but also to my recent accomplishments in 2015. This painting is dated 1972. And you're telling me that you don't have the information. So how did it.

00;02;32;07 - 00;02;34;26

Speaker WorthPoint Employee Anita Brooks

You're, you're the ... you're the.... You're the paint.... You're the artist ?

00;02;34;26 - 00;02;43;23

Speaker Annamarie Trombetta Plaintiff

I'm the artist. But I never did that painting.

Plaintiff's Evidence Expert Dis. 000923

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Speaker WorthPoint Employee Anita Brooks

You're the artist but you never did that painting ?

Speaker Annamarie Trombetta Plaintiff

That is correct.

00;02;44;28 - ;02;59;08

Speaker WorthPoint Employee Anita Brooks

Okay, well, that's not information that we would have. We don't. We don't have.... anything to do with ..um... any information that eBay, uh.... gives us. Whatever information eBay has.... When someone post something on eBay and they're asking for a bid and they want to sell it on eBay and they sell it on eBay, the information that eBay has, is what we receive from them, we don't alter the information at all.

00;03;09;16 - 00;03;10;00

Speaker Annamarie Trombetta Plaintiff

OKay , so.....

00;03;10;05 - 00;03;14;04

Speaker WorthPoint Employee Anita Brooks

All the information that you see on our website is exactly what we got from eBay.

00;03;17;01 - 00;03;25;24

Speaker Annamarie Trombetta Plaintiff

(Plaintiff is Referring to WorthPoint's sales Records shown to subscribers to WorthPoint membership)

But there is no item category..... and there is no seller. There's just a date and a price.

00;03;26;23 - 00;03;29;18

Speaker WorthPoint Employee Anita Brooks

Right. Cause that's the information we receive from eBay.

00;03;29;18 - 00;03;59;01

Plaintiff's Evidence Expert Dis. 000924

Speaker Annamarie Trombetta Plaintiff

Right. But the price is not available if you don't sign on for the membership. And it also says. Yeah. Well, it also says in the description that there's 12 photos and there's noI signed on to the descript. ...uh... for the membership to WorthPoint, and there's no photos other than a photo of a signature So even though you're saying that you got this information from eBay, who's your source?

00;04;00;12 - 00;04;05;04

Speaker WorthPoint Employee Anita Brooks

eBay

Speaker Annamarie Trombetta Plaintiff

That doesn't answer my question. Who gets the information?.....from eBay

00;04;05;04 - 00;04;08;26

Speaker WorthPoint Employee Anita Brooks

That's our source ... our source is eBay. We received the information directly from eBay.

00;04;08;26 - 00;04;15;16

Speaker Annamarie Trombetta Plaintiff

But a person at your company has to receive the information. Who is that person?

00;04;15;26 - 00;04;17;21

Speaker WorthPoint Employee Anita Brooks

Oh, that's not.... No name.. .That's not information that I would give out.

00;04;18;12 - 00;04;24;22

Speaker Annamarie Trombetta Plaintiff

Well, I'm asking because you've given out my information and you've given out my informationincorrectly.

00;04;25;22 - 00;04;30;10

Speaker WorthPoint Employee Anita Brooks

Well, what we have done is... eBay has the one who has put that information on their website. and you refus... Name...name ...we receive the information from eBay

Plaintiff's Evidence Expert Dis. 000925

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00;04;30;13 - 00;04;35;04

MS. BROOKS IS SPEAKING OVER PLAINTIFF AT THE SAME TIME

Speaker Annamarie Trombetta Plaintiff

No, but you're ... You're ... responsible. ... You're responsible.

00;04;35;25 - 00;04;58;10 00;04;58;20 - 00;05;05;15

Speaker WorthPoint Employee Anita Brooks

So if the information was on your wrong, that they (eBay) gave us ... okay. Now we know that it's wrong. You can send us an EmailIf you want that information to be corrected on our website so that someone would have the properYou can email us the corrected information that you would like to be seen on our website, and I'll pass it on to our marketing director and we'll find out if he's going to change that information and/ or take it out altogether. But I wouldn't give out any information referencing any specific person in our company. I'll pass the information on to them through your email..... the seller it is?

00;05;05;16 - 00;05;10;26

Speaker Annamarie Trombetta Plaintiff

I'm asking.... I'm asking, who is the person at your company that put this on your website
(MS. BROOKS IS SPEAKING OVER PLAINTIFF AT THE SAME TIME)

00;05;10;26 - 00;05;33;17

Speaker WorthPoint Employee Anita Brooks

Again... I will not give out this information....If you want to email us at support@worthpoint.com and ask any specific questions or request...or any specific thing.... , I'll pass that information on to the marketing director. And the marketing director can correspond with you at their leisure, deciding on what they want to do. But, I personally am not going to give you any specific information about anyone at our company.

00;05;33;20 - 00;05;39;16

Speaker Annamarie Trombetta Plaintiff

(MS. BROOKS IS SPEAKING OVER PLAINTIFF AT THE SAME TIME)

OK, well, Can I....Can I have... Can I have the name of the marketing director ? For the email

00;05;39;18 - 00;05;55;27

Plaintiff's Evidence Expert Dis. 000926

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Speaker WorthPoint Employee Anita Brooks

His name is GregHis name is Greg ...

Speaker Annamarie Trombetta Plaintiff

Greg what?

Speaker WorthPoint Employee Anita Brooks

Greg he's the only Greg here and that's all the information I'm going to give you. Again if you want to email me I will pass the information on to him and he can correspond with you that way, but I'm not going to give you any other specific information about him.

00;05;56;06 - 00;06;01;08

Speaker Annamarie Trombetta Plaintiff

But yo' re putting inform....you're putting information....Anita ...Anita ...Your company is...

(MS. BROOKS IS SPEAKING OVER PLAINTIFF AT THE SAME TIME)

Speaker WorthPoint Employee Anita Brooks -

--SPEAKING OVER PLAINTIFF IN A VERY RUDE MANNER

....on our website....and it is from our affiliates....copy down your putting any specific information any information on our website about you... That's not what we've done....

00;06;01;08 - 00;06;01;21

Speaker Annamarie Trombetta Plaintiff

Yes you ...Yes you...

00;06;08;06 - 00;06;20;26

Speaker WorthPoint Employee Anita Brooks

That's not what we've done.

00;06;21;00 - 00;06;21;28

Speaker Annamarie Trombetta Plaintiff

Yes, you have. You put my biography, which describes me to a tee. That's how I knew it was me. It describes my.... the year that I was born, where I lived..... Personal information.

00;06;25;09 - 00;06;32;01

Plaintiff's Evidence Expert Dis. 000927

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Speaker WorthPoint Employee Anita Brooks

Email me.....Email me that information. If it's if it's public information...and we got it from eBay, then we can put it on my website.

00;06;32;04 - 00;06;34;07

Speaker Annamarie Trombetta Plaintiff

Well, it's also copyrighted information.

00;06;35;04 - 00;06;45;03 00;06;45;03 - 00;06;54;13

Speaker WorthPoint Employee Anita Brooks

We can... Based on the information that we were receive from ...from eBay or any of our other affiliates we can put that on the website. It's NOT private information. That's public information.. Where you were born ... Your name... all that. That's public information. Anybody can look that up if they know your first and last name. That's public information. You can look that up through the... through the state....website.. That's public information mame.

00;06;57;04 - 00;07;07;16

Speaker Annamarie Trombetta Plaintiff

Yes, but it was....The information was very descriptive and taken from a particular source.

00;07;08;00 - 00;07;11;13

Speaker WorthPoint Employee Anita Brook

OK, well, you may ...You may want to contact that particular source and ask them why they're passing your information around.

00;07;12;06 - 00;07;15;16

Speaker Annamarie Trombetta Plaintiff

Well, that source is you !

00;07;15;23 - 00;07;30;19

Speaker WorthPoint Employee Anita Brooks

No MameBecause... because ..we don't we're not .. we don't... we... The only information that's on our website.... And what I'm trying to get you to understand..... Is the information that we have received from another source.....

(MS. BROOKS IS SPEAKING OVER PLAINTIFF AT THE SAME TIME)

Plaintiff's Evidence Expert Dis. 000928

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Speaker Annamarie Trombetta Plaintiff

and I'm and I'm and I'm ...I'm

(MS. BROOKS IS SPEAKING OVER PLAINTIFF AT THE SAME TIME)

Speaker WorthPoint Employee Anita Brooks

That is either eBay or another different affiliates but we personally do not go out and hunt down....information

00;07;30;21 - 00;07;56;13 --00;07;56;20 - 00;07;59;13

Speaker Annamarie Trombetta Plaintiff

Okay.... It has to be a different affiliate because trust me, when I tell you, I contacted eBay today and spoke to four different people.... and they said that they have no record of that information and they have consistently..... the four people that I spoke to..... told me.... informed me that this is on WorthPoint's website I have to contact you.....That's why I'm contacting you..... It's that simple.

00;07;59;13 - 00;08;02;22

Speaker WorthPoint Employee Anita Brooks

That's because they don't keep information past a certain amount of time, that's the only reason. They don't keep information past ninety (90) days.

00;08;02;27 - 00;08;27;10

Speaker Annamarie Trombetta Plaintiff

They don't keep information. But that'sthat's not my problem. My problem is that eBay and Worth Point have ascribed a false painting to my name.

00;08;27;11 - 00;08;29;19

Speaker WorthPoint Employee Anita Brooks.

And I'll pass the information onto Greg.

Speaker Annamarie Trombetta Plaintiff

Is there anyone else, any supervisor at your company that I can speak to regarding this?

Speaker WorthPoint Employee Anita Brooks.

No name. I can handle this and I will pass it onto Greg. That's the protocol here.

00;08;31;18 - 00;08;36;05

Plaintiff's Evidence Expert Dis. 000929

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Speaker Annamarie Trombetta Plaintiff

Well, I have my own protocol too... which is I don't like false...

WorthPoint Employee ANITA BROOKS ---SPEAKING OVER PLAINTIFF

00;08;36;15 - 00;08;44;02

Speaker WorthPoint Employee Anita Brooks

Sure... by all means... and you Email us....all the questions that you said you want us to find out, you email us and I'll pass that information onto Greg. Now we're going to let him handle it

00;08;45;11 - 00;08;48;10

Speaker Annamarie Trombetta Plaintiff

Well, is he available today? (—the date was January 22, 2016.)

00;08;51;19 - 00;08;55;05

Speaker WorthPoint Employee Anita Brooks

I'm not privy to his schedule, but I will make sure he gets this email.

00;08;55;27 - 00;09;07;23

Speaker Annamarie Trombetta Plaintiff

Well, I'm telling you again, if you can pass that onto Greg. I contacted eBay four times. This is a piece of artwork that's from 1972.

00;09;08;11 - 00;09;11;18

Speaker WorthPoint Employee Anita Brooks

As you have explained and I will copy information onto Greg.

00;09;12;05 - 00;09;12;23

Speaker Annamarie Trombetta Plaintiff

Thank you.

Speaker WorthPoint Employee Anita Brooks

Have a good day.

Plaintiff's Evidence Expert Dis. 000930

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From January 22, 2016 thru January 31, 2013 Plaintiff left messages with WorthPoint Message Voicemail. On January 29, 2016 I signed out of WorthPoint's Membership January 31, 2016, I recorded message I left on voicemail

WORTHPOINT SERVICE OUTGOING MESSAGE

Time 00;09;18;28 - 00;09;54;01

WORTHPOINT'S OUTGOING VOICE MESSAGE SERVICE ON MONDAY FEBRUARY 1. 2016

Welcome to WorthPoint. Your call is important to us. Please listen carefully as our options have changed. on hold you may in the press 9 at any time to leave a voicemail For Cancellations--press one For Password --press two. If you're looking to Buy or Sell --- press three-- For bidding and billing information --press four. To speak to a representative please press 6 The person at extension 4011 is unavailable. Please leave your message after the tone. When done, hang up or press the pound key.

00;09;55;12 - 00;10;19;04

Annamarie Trombetta Plaintiff's February 1, 2016 Voice Message left on WorthPoint's Phone Message Service

Speaker Annamarie Trombetta Plaintiff

Yes, my name is Annamarie Trombetta . Today is February, first Monday(2016) I need to speak to Anita regarding a situation of a piece of artwork online which is attributed to me that is not mine. My telephone number is 212. 427-5990. Again, this message is for Anita, thank you.

WORTHPOINT'S AUTO PHONE CALLING SERVICE LEDS TO 2ND CALL WITH ANITA BROOKS on FEBRUARY 2, 2016

00;10;25;25 - 00;10;36;04

FEBRUARY 2, 2016 WORTHPOINT'S OUTGOING VOICE MESSAGE SERVICE

Your call is important to us all. Please listen carefully as our options have changed.
(Sound of Phone ringing)

00;00;11;26;26 - 00;11;28;15

Plaintiff's Evidence Expert Dis. 000931

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Speaker WorthPoint Employee Anita Brooks

Hello WorthPoint, this is Anita. May I help you.

Speaker Annamarie Trombetta Plaintiff

Ah Yes Anita,
This is Annamarie Trombetta. I'm returning your call from yesterday or trying to, you know contact you. I have been looking at the internet and underneath my name comes up this painting that I did not do and it's on the WorthPoint dot com website. I don't know what to tell you. I... it's not my painting.

00;11;07;13 - 00;11;23;18

Speaker WorthPoint Employee Anita Brooks

OK?

Speaker Annamarie Trombetta Plaintiff

And yet it's coming up underneath my name. When you google my full name, it's one of my credentials. And since I didn't do it, it'sit's not....it doesn't belong there.

00;11;29;05 - 00;11;44;22

Speaker WorthPoint Employee Anita Brooks

And you said it's on our website.

Speaker Annamarie Trombetta Plaintiff

It's on your..... it's on your website. Yeah.And more importantly, it comes up underneath my name. If you Google Annamarie Trombetta.....

0;11;45;05 - 00;11;47;01

Speaker WorthPoint Employee Anita Brooks

OKAnd have you not had any correspondence from somebody here regarding that?

00;11;50;02 - 00;12;00;03

Speaker Annamarie Trombetta Plaintiff

That is the reason for my call. I have not. When I last spoke with you on January the 22nd I did tell you about this I said.

00;12;00;06 - 00;12;02;04

Plaintiff's Evidence Expert Dis. 000932

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#38A B

Speaker WorthPoint Employee Anita Brooks

Right and no one has corresponded with you?

00;12;02;15 - 00;12;09;02

Speaker Annamarie Trombetta Plaintiff

Yeah ---Somebody named Greg didn't correspond with me. You had said that you would forward this to Greg.

00;12;09;09 - 00;12;16;19

Speaker WorthPoint Employee Anita Brooks

Yes I did and that's why I asking did he not correspond with you. Ok well I will forward your number to him once again and let him know.

00;12;17;02 - 00;12;20;08

Speaker Annamarie Trombetta Plaintiff

OK, well, can anything be done about this?

00;12;21;24 - 00;12;31;05

Speaker WorthPoint Employee Anita Brook

Well, he'll have to make that decision.

Speaker Annamarie Trombetta Plaintiff

Well...ah

Speaker WorthPoint Employee Anita Brook

We won't want to say that you are the artistif in fact you're not the artist.

00;12;32;10 - 00;12;32;25

Speaker Annamarie Trombetta Plaintiff

Right

Thank you.

Speaker WorthPoint Employee Anita Brook

00;12;33;21 - 00;12;35;22

You're quite welcome. I will pass your information along.

Plaintiff's Evidence Expert Dis. 000933

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00;12;35;28 - 00;12;38;19

Speaker Annamarie Trombetta Plaintiff

OK, thanks.

Speaker WorthPoint Employee Anita Brook

Have a good day.

Speaker Annamarie Trombetta Plaintiff

You too.

END

Plaintiff's Evidence Expert Dis. 000930

EXHIBIT #308

From January 22, 2016 thru January 31, 2013 Plaintiff left messages with WorthPoint Message Voicemail. On January 29, 2016 I signed out of WorthPoint's Membership January 31, 2016, I recorded message I left on voicemail

WORTHPOINT SERVICE OUTGOING MESSAGE

Time 00;09;18;28 - 00;09;54;01

WORTHPOINT'S OUTGOING VOICE MESSAGE SERVICE ON MONDAY FEBRUARY 1, 2016

Welcome to WorthPoint. Your call is important to us. Please listen carefully as our options have changed. on hold you may in the press 9 at any time to leave a voicemail For Cancellations--press one For Password --press two. If you're looking to Buy or Sell ---press three-- For bidding and billing information --press four. To speak to a representative please press 6 The person at extension 4011 is unavailable. Please leave your message after the tone. When done, hang up or press the pound key.

00;09;55;12 - 00;10;19;04

Annamarie Trombetta Plaintiff's February 1, 2016 Voice Message left on WorthPoint's Phone Message Service

Speaker Annamarie Trombetta Plaintiff

Yes, my name is Annamarie Trombetta . Today is February, first Monday(2016) I need to speak to Anita regarding a situation of a piece of artwork online which is attributed to me that is not mine. My telephone number is 212. 427-5990. Again, this message is for Anita, thank you.

WORTHPOINT'S AUTO PHONE CALLING SERVICE LEDS TO 2ND CALL WITH ANITA BROOKS on FEBRUARY 2, 2016

00;10;25;25 - 00;10;36;04

FEBRUARY 2, 2016 WORTHPOINT'S OUTGOING VOICE MESSAGE SERVICE

Your call is important to us all. Please listen carefully as our options have changed.
(Sound of Phone ringing)

00;00;11;26;26 - 00;11;28;15

EXHIBIT # 39

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1 A. Trombetta

2 Now I am asking did anyone ever
3 mention to you that they had seen this post prior
4 to August 1, 2015 regardless of when they
5 mentioned it to you?

6 A. This situation began August 2015. Any
7 person, people that contacted me about this post
8 was after August 2015.

9 Asked, answered before at the
10 beginning of this deposition and presently.

11 MR. BIALEK: Can you please mark this
12 as Defendants' 15. It is Plaintiff 000019
13 to 20.

14 (Defendants' Exhibit 15, a document
15 Bates stamped Plaintiff 000019 to 000020,
16 marked for identification, as of this date.)

17 Q. I am showing you what has been marked
18 as Defendants' Exhibit 15 and ask if you have ever
19 seen this document before?

20 A. I produced it and yes, I have seen it.

21 Q. What is your understanding of what
22 this is?

23 A. This is -- let me reel it in.

24 What is your question definitively;
25 what do you want to know?

EXHIBIT #39

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1 A. Trombetta

2 Q. What is your understanding of what
3 this document is?

4 A. It is self-described item review
5 request. In the search bar it says
6 www.Worthpoint.com about item and in it is the
7 1972 original oil painting.

8 Q. So this is your request in 2016 to
9 remove this item from Worthpoint; is that correct?

10 A. That was one of them, yeah. I was
11 reviewing the information.

SEE EX. 37

12 Q. And this was from January 14, 2016?

13 A. I believe it doesn't say January.

14 Q. I think that's probably a hole in that
15 one where the 1 is. I will represent to you that
16 item Plaintiff 000019 that you produced to us has
17 at the top request item removal 2016-01-14 at
18 8.47.43 a.m.

19 So this was your request to remove the
20 item; correct?

21 A. I am trying to again, because it is
22 from 2016. These are printouts from the
23 Worthpoint web page, website rather. These are
24 pages, web pages from Worthpoint.

25 Are we clear?

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1 A. Trombetta

2 Q. I will go a little slower. If you can
3 look at the first paragraph it says "Worthpoint is
4 a website for collectors and consumers that
5 provides price history and other information for
6 all types of collectible items. These items are
7 not for sale by Worthpoint."

8 Do you see that paragraph?

9 A. I see it in writing.

10 Q. Is there anything unclear about that
11 paragraph?

12 A. What's unclear is that in the
13 documented phone call the outgoing message in
14 order to leave a message states that we buy and
15 sell. If you have anything to buy and sell. So
16 there is a contradiction.

17 Q. But not in --

18 A. Between --

19 Q. Not in this document; correct?

20 A. In this document what is said is what
21 you read to me.

22 Q. And that's clear to you, there is no
23 ambiguity there; correct?

24 A. What is ambiguous is as mentioned that
25 the document on the web page, just one web page

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1 A. Trombetta

2 says that they don't buy anything, but the phone
3 call, which I encourage you to listen to, says if
4 you are interested in buying or selling a
5 painting.

6 So again, the theme of contradiction
7 and confusing information side by side is what has
8 elongated and perpetuated this problem.

9 Q. But this paragraph is not ambiguous at
10 all; correct?

11 A. This paragraph has statements.

12 Q. Which are clear?

13 A. They are clear. I don't know if they
14 are true or not.

15 Q. In the next paragraph says "We license
16 the data displayed in the Worthopedia from a
17 variety of sources."

18 That's clear to you?

19 A. Variety of sources, yeah.

20 Q. And does it say "We are an official
21 licensee of eBay and many of the leading auction
22 houses."? Do you see that?

23 A. I saw it long before you saw it.

24 Q. And it is clear to you; correct, it is
25 not ambiguous?

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1 A. Trombetta

2 A. What is ambiguous are the
3 contradictions. Please go ahead.

4 Q. And it says "Our agreements permit us
5 to display all art, antiques, and collectible
6 items with full attribution that are contained in
7 eBay's and the respective auction house partners'
8 product catalogs along with the price paid for
9 such item."

10 Is there anything unclear about that
11 paragraph?

12 A. What's unclear is that it says full
13 attribution. Mine was completely incorrect. And
14 the fact that it displays all art and my
15 particular 1972 -- well, not mine but correction,
16 stricken. The 1972 original oil painting entitled
17 Man With Red Umbrella was even though clear as a
18 bell, can you see clearly 12 photos written in the
19 description? Clearly it was written 12 photos,
20 but in reality on Worthpoint's website there were
21 no visual photos. I had no idea what the painting
22 looked like.

23 Q. Do you know whether Worthpoint was
24 required to post every single thing that was on
25 eBay's site?

EXHIBIT #39

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1 A. Trombetta

2 A. If I encourage you to listen to the
3 phone recording with Gregory Watkins.

4 Q. Have you read the license for
5 Worthpoint to publish these listings?

6 A. Have I read the license? I have tried
7 to comprehend it. So in answer to your question,
8 I have read the license.

9 Q. You see the area it says item review.
10 "If you believe the item listed on the previous
11 page is fraudulent or otherwise inappropriate for
12 view, please supply the information requested
13 below."

14 Do you see that?

15 A. I see that.

16 Do you see the URL?

17 Q. Yeah, I was going to ask you.

18 Did you populate that with the URL?

19 A. What do you mean populate?

20 Q. Did you type in that URL?

21 A. Did I type in that URL?

22 Q. Yes.

23 A. There is something on top.

24 You see that, on top http?

25 Q. Yes, I do, but I am asking did you

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1 N. NOVOCIN

2 words, the signature on the front of the
3 painting was a garbled and it was kind of
4 hard to read, when you turn it over, it had
5 printed out what it was and if it were up
6 to me, I would make it almost a law that
7 all the artists had to print out the actual
8 name and so forth. Because some artists
9 pictures are so, so hard to read. So this
10 allowed us to be able to look up Trombetta,
11 Annamarie. This one says Maria. I didn't
12 remember it saying Maria, but that's how I
13 looked it up.

14 MR. BIALEK: Marlene, can you
15 read back the beginning of his
16 answer.

17 (Whereupon, the referred to
18 answer was read back by the
19 Reporter).

20 Q. Mr. Novocin, in your practice
21 of dealing with antiques, have you ever
22 encountered any ratings or stamps or labels
23 glued to the back of the painting?

24 A. Yes.

25 Q. In your experience, is there

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2 right-hand corner of this painting?

3 A. Yes.

4 Q. Does that appear to contain a
5 signature?

6 A. Yes.

7 Q. Was this the signature that you
8 testified earlier was difficult to make
9 out?

10 A. Yes.

11 Q. Incidentally, just for the
12 record, did you put any writing on that
13 painting yourself?

14 A. No.

15 Q. To your knowledge, did anybody
16 associated with Estate Auctions, Inc. put
17 any writing on that painting?

18 A. No.

19 Q. When you examined this painting
20 for the first time, did you make any notes
21 about it for yourself?

22 A. No.

23 Q. When you put up this painting
24 for sale on Ebay, did you yourself take any
25 photographs of it in order to post it on

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N. NOVOCIN

Ebay?

A. No.

Q. Did somebody else at Estate Auctions, Inc. take such photographs?

A. Yes.

Q. Is Estate Auctions, Inc. currently in possession of any such photographs?

A. No.

Q. You mentioned that Estate Auctions, Inc. is currently a defunct entity; is that right?

A. Correct.

Q. That's a hypothetical. If Estate Auctions, Inc. had records previously, where would they currently be kept, if at any location?

A. We kept them on the cloud, which is a cloud for a server at a location outside of our own property. We still keep records of photos and everything else on a server outside of our own property, but a few years ago, long after 2012, we were notified by a company that kept all of our

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2 records that we had grown too large and
3 they were going to shut us down. So we
4 shut that server down and started a new one
5 and in the process, lost all of the
6 previous records we had on the cloud. So
7 we no longer had records to be able to go
8 back and get and unfortunately, the cutoff
9 for it was, like, two weeks after this went
10 onto the cloud. So it was like in 2012.
11 The end of December is when that cutoff of
12 us saving it went forward.

13 Q. Do you remember whether or not
14 the Estate Auctions, Inc. listing of this
15 painting contained a close-up picture of
16 the signature on this painting?

17 A. It did.

18 Q. Mr. Novocin, compared to the
19 other items that you acquired from antique
20 mall, was this painting, Man With A Red
21 Umbrella a more valuable item, a less
22 valuable item as others, somewhere in the
23 middle, something else?

24 A. It was run of the mill. These
25 things we sold from out of that auction

.nal Oil Painting Man With Red Umbrella Signed Annamarie Trombetta yqz (12/01/2012)

1/14/16, 8:42 AM



EXHIBIT
#41



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1972 Original Oil Painting Man With Red Umbrella Signed Annamarie Trombetta yqz

- Sold for: [Start Free Trial](#) or [Sign In](#) to see what it's worth.
- Item Category: -
- Source: [eBay](#)
- Sold Date: Dec 01, 2012
- Channel: Online Auction

Welcome to EstateAuctionsInc! We are one of the Top Sellers of Antiques, Collectibles and Quirky items on eBay. We have been selling since 1998 and ALL of our auctions start at .99 cents. We are proud to announce that we maintain a "FIVE STAR Detailed Seller Rating" and our staff strives for 100% customer satisfaction, our 100% feedback rating will vouch for that. We work with consigners from Coast-To-Coast and work hard to make sure we have top quality items. We are "Your Quality Zone" - search "YQZ" to see our other listings our !

>>>>> UP IN THIS AUCTION <<<<< 1972 Original Oil Painting Man With Red Umbrella Signed Annamarie Trombetta New York Listed Artist - Shabby Chic Condition

- DESCRIPTION - Please be patient there are 12 photos to be loaded in this auction. Up in this auction is a wonderful and delightful oil on canvas painting of a man (I guess it could be a woman) with a red umbrella. This is by Annamarie Trombetta. It is signed on the bottom, but on the back it has written in red on the stretcher, Annamarie Trombetta "Gifted" 1977, "Painted" 1972. To our eyes it looks like it is after the style of Andre Kohn. It is quite large being approx. 48 1/2" tall and 17 1/2" wide. We are calling it shabby chic condition as it has a tear in the canvas, about 5/8" long just to the left of the man's knees, but still such a great painting. For those not familiar with Trombetta, here is information about her from off AskArt as they got it from her website: Annamarie Trombetta (1963 -) Lived/Active: New York The nature of an artist's life, creativity and

1972 Original Oil Painting Man With Red Umbrella Signed Annamarie Trombetta yqz (12/01/2012)

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8/1/15, 8:46 PM

website: Annamarie Trombetta (1963 -) Lived/Active: New York The nature of an artist's life, creativity and growth may be synonymously expressed in the image of an archetypal tree. Beginning with the earthly descendent roots the artist like the tree branches out into its surrounding environmental and celestial world. Both ascend and descend, widening their girth of consciousness while producing visual imagery, weathering each season of change. Thus, I believe it is the nature of the artist and of nature itself to regenerate and manifest. All of the imagery in this catalog was either created en plein air or from the subject directly. My journey to becoming an artist began many years ago. The consanguineous roots of my Italian family tree provided me with an innate constitution for my artistic profession. When I was a tiny seed of contemplative thought, my artistic nature began to sprout interest while gazing up at the ceiling paintings in a neighborhood church named Regina Pacis, meaning Queen of Peace. The church located in Brooklyn, NY features ceiling paintings, sculptures, marble interiors, and incorporates architectural elements for the façade and the belfry that are of Italianate design. Before the age of three I was able to surmise that the church in the ceiling painting was indeed the church I was in. The visual stimulation was a form of education. It fostered my sense of perception which became my strongest mode for acquiring knowledge. As the years unfurled, my family moved to Staten Island. At this time it was a scenic field of luminosity, lush vegetation and a harbor view complete with sail boats and small yachts. A few years after we moved my tree of life was in jeopardy of losing a limb. What appeared to be a swollen leg was indeed a cancerous tumor. It was an almost fatal or perhaps even a fated occurrence in my life. The struggle to survive the experience was lightened by my imagination and by my artistic ability to create. I seriously thought I would go into medicine but the posters and paintings in the hospital and doctor's office held my attention more intensely. I began my formal training at The Brooklyn Museum School of Art while I was in high school. The exposure to various forms of art inspired me to expand my horizons and in the early Eighties I traveled on a summer tour to Europe. The tour comprised of six countries; Germany, Austria, France, Italy, Switzerland and England. Viewing so many different cities and cultures in a concentrated period of time...

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